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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Antony L. Baughn

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EXAMINER

SPAHN, GAY

ART UNIT

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3635

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/796,969	Applicant(s) BAUGHN ET AL.	
	Examiner Gay Ann Spahn	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004 and 19 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-25 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The examiner notes that the Election of Species Requirement made by Examiner Junker in the Office Action mailed 19 May 2007 is being vacated in favor of the Restriction Requirement and Election of Species Requirements being made below.

Election/Restrictions - Restriction Requirement

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-16 and 18-25, drawn to a shutter, classified in class 52, subclass 656.9.
- II. Claim 17, drawn to a method of making a shutter, classified in class 156, subclass 60.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product (i.e., shutter), as claimed, can be made by another and material different process such as one that does not include the adhering steps because projection of the corner connector can be bonded to a surface of the receptacle but other means than adhesive or glue such as heat welding.

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Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Election/Restrictions - Election of Species Requirement

This application contains claims directed to THREE GROUPS OF SPECIES from each of which Applicants must elect a single species.

The FIRST GROUP OF SPECIES (i.e., species of shutter) from which Applicants must elect a single species is:

GROUP I, SPECIES I - Fig. 1;

OR

GROUP I, SPECIES II - Figs. 15 and 16.

The species are independent or distinct because:

GROUP I, SPECIES I (i.e., Fig. 1) discloses a shutter (10) without a center louver support member; and

GROUP I, SPECIES II (i.e., Figs. 15 and 16) discloses a shutter (11 in specification, but not shown in drawing figures) with a center louver support member (82, but not labeled in Figs. 15 and 16).

The SECOND GROUP OF SPECIES (i.e., species of corner connector) from which Applicants must elect a single species is:

GROUP II, SPECIES I - Figs. 4, 5, 15, and 16;

OR

GROUP II, SPECIES II - Fig. 9.

The species are independent or distinct because:

GROUP II, SPECIES I (i.e., Figs. 4, 5, 15, and 16) discloses a solid corner connector (24) without a latch pin through one of the projections (24A, 24A); and

GROUP II, SPECIES II (i.e., Fig. 9) discloses a corner connector (24) with a latch pin (46) through one of the projections (24A, 24A).

The examiner notes that Applicants must elect in such a manner as to not mix embodiments and notes that paragraph no. [0065] clearly indicates that the embodiment of the corner connector member (24) acting as a latch-supporting guide is only envisioned with respect to the Fig. 1 embodiment of the shutter, not the Figs. 15 and 16 embodiment. Therefore, if Applicants elect SPECIES II (of GROUP I) as they did in the "RESPONSE TO RESTRICTION REQUIREMENT" filed on 19 April 2007, then they cannot elect SPECIES II (of GROUP II) because the specification and Fig. 16 does not support the GROUP I, SPECIES II embodiment of the shutter having a corner connector with latch mechanism.

The THIRD GROUP OF SPECIES (i.e., species of rail member without hinge member, rail member with integral hinge member, and rail member with detachable hinge member) from which Applicants must elect a single species is:

GROUP III, SPECIES I - Figs. 6 and 12;

GROUP III, SPECIES II - Fig. 17;

OR

GROUP III, SPECIES III - Fig. 18.

The species are independent or distinct because:

GROUP III, SPECIES I (i.e., Fig. 6) discloses a cross-section of a rail member (16, 18, 20, 22) without a hinge member;

GROUP III, SPECIES II (i.e., Fig. 17) discloses a cross-section of a rail member (16, 18, 20, 22) with a hinge member (110); and

GROUP III, SPECIES III (i.e., Fig. 18) discloses an example of a hinge member (114 in specification, but not shown in drawing figures) having a plate (112) which is screwed or otherwise attached to a rail member (16, 18, 20, 22).

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 15 and 17 appear to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and **a listing of all claims readable thereon, including any claims subsequently added** *(the examiner notes that in the "RESPONSE TO RESTRICTION REQUIREMENT" filed on 19 April 2007 in response to the now vacated Election of Species Requirement made in the Office Action mailed 19 March 2007, Applicants failed to list the claims readable upon the elected species and if they do not do so in response to the present Election of Species Requirement, the examiner will find the response to be non-responsive)*. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.
MPEP § 809.02(a).

A telephone call to Applicants to request an oral election to the above Restriction Requirement and Election of Species Requirements was not made due to the complexity of the election.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because there are two Figure 15's (i.e., a first Figure 15 is on the seventh of the nine pages of drawing figures and a second Figure 15, identical in structure to the first Figure 15 but having more reference numerals thereon, is on the ninth of the nine pages of drawing figures) and thus, a deletion of one of the Figure 15's is required for clarity. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Friday, 10:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard E. Chilcot can be reached on (571)-272-6777. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gay Ann Spahn

Gay Ann Spahn, Patent Examiner
July 8, 2007